

**CALIFORNIA INDUSTRIAL DEVELOPMENT
FINANCING ADVISORY COMMISSION**

915 CAPITOL MALL, ROOM 457
SACRAMENTO, CA 95814
(916) 653-3843



Potential Applicants:

Enclosed is an application package for the California Industrial Development Financing Advisory Commission (CIDFAC). Please read the application package carefully and provide the information requested. Approval by the local industrial development authority must be received prior to consideration by CIDFAC.

Two copies of the application, all supporting documents including local authority approval and a \$1,250.00 application fee must be sent to the Sacramento office. Applications received in Sacramento by the 25th of the month will be placed on the following month's CIDFAC meeting agenda.

To receive tax-exempt bond allocation, issuers may jointly file the California Debt Limit Allocation Committee (CDLAC) application with the application submitted to CIDFAC. The CDLAC application is included in the CIDFAC application package.

We appreciate your interest in the industrial development bond-financing program and we hope that the use of tax-exempt IDB's will meet your financing needs. We look forward to working with you through this process. If you have any questions, please contact me at (916) 653-3843.

Sincerely,

Joanie Jones-Kelly
Deputy Executive Director

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Attachments:

1. California Industrial Development Financing Advisory Commission Project Application
2. California Debt Limit Allocation Committee Project Application
3. Title 10 California Government Code
4. California Industrial Development Financing Act – Regulations
5. California Industrial Development Financing Advisory Commission Summary Sheet

II. BACKGROUND ON CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ADVISORY COMMISSION

In 1980, the California State Legislature passed the California Industrial Development Financing Act ("the Act"), which enabled every city and county in the state to create an industrial development authority ("IDA"). The Act authorizes each IDA to issue tax-exempt industrial development bonds ("IDBs") to finance eligible capital facilities for manufacturing businesses. These funded projects must generate substantial public benefits in return for the implicit public subsidy of tax exemption. To this end, the Act also created the California Industrial Development Financing Advisory Commission ("CIDFAC" or "the Commission") to advise local IDAs and independently review IDB applications for the provision of public benefits, and approve the sale of IDBs by the local authority.

The primary objective of CIDFAC is to provide manufacturers in California with an alternative, low-cost source of funds to finance capital expenditures, which will, in turn, increase employment or otherwise contribute to economic development. To this end, CIDFAC carefully reviews the public benefits generated by a project, particularly job creation, and determines whether these benefits will significantly outweigh any detrimental public effects from the project. In addition, CIDFAC maintains a statewide perspective to ensure that one entity of the state is not adversely affected by the issuance of IDBs by another jurisdiction.

Since its inception, the Commission has approved the issuance of over \$1 billion of industrial development bonds. More significantly, since the Tax Reform Act of 1986 which placed many restrictions on IDB issuance, the Commission has approved the issuance of nearly \$397 million of bonds for projects which detailed the creation of over 10,190 new jobs in California.

CIDFAC holds monthly meetings in Sacramento to consider IDB finance applications and handle other administrative matters. CIDFAC's staff maintains an office in Sacramento and the Executive Director is available for appointments in the Los Angeles Office of the State Treasurer.

III. ELIGIBILITY GUIDELINES

Both federal and state statutes govern the eligibility of projects for tax-exempt IDBs. The federal restrictions are primarily contained in the Internal Revenue Code of 1986 and Treasury Regulation Section 103. These requirements affect the use of proceeds, volume limitations and several technical aspects of bond issuance. Applicants should consult with qualified bond counsel to ensure that the project meets the federal regulations. In addition, federal law now requires that a Tax Equity Fiscal Reform Act (TEFRA) hearing must be held prior to the issuance of bonds. In order to comply with this provision, CIDFAC requires evidence of this hearing prior to CIDFAC approval.

IV. CALIFORNIA ELIGIBILITY REQUIREMENTS

The State of California, through the 1980 Act, establishes further requirements for approval of IDB projects. The Act authorizes issuance of bonds only to assist projects in the following categories:

- (1) Industrial projects, including, without limitation, assembling, fabricating, manufacturing, or processing, with respect to any products of agriculture, forestry, mining, or manufacture;
- (2) Projects for energy development, production, collection or conversion;
- (3) Projects, which process or manufacture recycled or reused products and materials. It is the activity or "use" for which a project is acquired or built, and not the company, which determines the eligibility for financing. A company whose major activity is not industrial may qualify if the activity for which the application is filed is industrial.

Not all activities clearly fit the categories specified in the Act. In general, activities qualify which have Standard Industrial Classification Code numbers ranging from 2000 to 3999. Other activities must be reviewed with qualified bond counsel before consideration by CIDFAC.

For those activities that include a mixed use of eligible and ineligible activities, the eligible activity must be the predominant use of the project to be financed.

Eligibility Requirements

The California legislation and guideline require a clearly defined public benefit of completing the project and that one job should be created for every \$50,000 of bonds issued. If a company is relocating within the state, the company is required to obtain written documentation that the community losing the facility has been contacted and an effort has been made to find suitable space within the city. A letter from the current community is required. The prevailing wage must be paid to workers involved in the construction or renovation of a facility financed with IDBs defined in California Government Code, Section 915337(1).

Eligible Manufacturing Businesses

Industrial Development Bonds can be used for capital expenditures to expand or the acquisition of facilities and equipment for projects including assembly, fabrication, manufacturing, processing with respect to any products of agriculture, forestry, mining or manufacture. Business whose principal activity is energy development production collection or conversion may also utilize this financing option. Businesses, which process or manufacture recycled or reused products and materials also qualify.

Use of Bond Proceeds

Bond proceeds can be used to acquire land, buildings and equipment, machinery and furnishings, landscaping, cost of architects, engineers, attorney and permits, and the cost of bond issuance. The financial advisor and bond counsel will provide detailed guidance.

V. FEDERAL ELIGIBILITY REQUIREMENTS

Eligibility Requirements

Federal legislation and tax codes place the following restrictions of the use of tax-exempt bond proceeds. Ninety-five percent (95%) of the proceeds must be used for the defined project and the cost of issuance cannot exceed two percent (2%) of the bond proceeds. No more than twenty-five percent (25%) of the proceeds can be used for land cost. To acquire an existing building, a maximum of fifteen percent (15%) of the bond proceeds must be used to renovate the facility. The weighted average life of the bond issue cannot exceed 120% of the weighted average of the estimated life of the assets being financed and the maximum bond term is 40 years.

A TEFRA public hearing must be held before the bonds are issued. In California, this is part of the local inducement process.

Restriction on Size of Bond issues

The maximum face amount of a tax-exempt IDB bond issue is \$10 million per applicant per public jurisdiction. Included in this \$10 million maximum is all capital expenditures in the jurisdiction made three years prior to the bond issue and three years following the issue. Additionally, total IDBs outstanding by one company nationwide may not exceed \$40 million.

VI. PUBLIC BENEFITS

Job Creation

In addition to being a qualified activity, a project must demonstrate public benefits in order to warrant CIDFAC approval. The CIDFAC members have designated job creation as the primary public benefit to be achieved. In the absence of other benefits, the Commission requires that one new job be created for every \$50,000 of bonds approved. In addition to this standard, the

Commission looks favorably on projects which will employ individuals affected by industrial relocations, new entrants or reentrance to the workforce, unemployed persons, or individuals participating in job training or placement programs. The Commission also favorably regards projects, which are located in an economically distressed area of the state or in a largely rural area. The Commission gives special priority to projects located in state-designated enterprise zones. Applicants should include written descriptions of the public benefits as part of their application.

Relocation

In addition to the job creation requirement, the Commission also scrutinizes the relocation effect of projects very closely. In passing the Act, the Legislature did not intend tax-exempt financing to be used to facilitate the relocation of a company's operations from one jurisdiction of the state to another without substantial justification. The CIDFAC review carefully weighs the overall public benefits created against the detriment to the community from which the facilities are relocated.

Applicants who are relocating must document, in their application, their efforts to work with the current community before abandoning its existing facility. **This documentation should include a timely notice to the city or county losing a facility of its intent to move, so that the jurisdiction will have time to initiate efforts to replace the labs**

lost. A written acknowledgment of the relocation from the city or county being left is also required. Applicants which are relocating must also include the measures they will undertake to defray the expenses of the move for their current employees.

Other Benefits

Other public benefits which the Commission will consider include job retention, energy and resource conservation, and product improvement. The Commission is required by the Act to determine that the proposed bonds are "fair, just and equitable to the purchaser of the bonds." To comply with this provision, the Commission generally requires that credit enhancement -either bond insurance or an irrevocable letter of credit - be applied to the bond issue, if they are publicly offered. Private placements do not require credit enhancement if the placement is limited to sophisticated investors and have restrictive resale provisions.

VII. APPLICATION PROCESS

Prospective User

Principles and financial officers of manufacturing businesses should contact CIDFAC to review eligibility requirements and the application process. Discussions should also begin with the local industrial development authority that All induce and issue the bonds. The next step is to initiate discussion with a financial institution willing to issue a letter of credit for the full amount of the bonds issued. The prospective users principal bank should be contacted in all instances as we often arrange for a master letter of credit if necessary. Concurrent with the discussions with a financial institution a law firm specializing in tax-exempt bonds should be contacted to identify bond counsel and the financial advisor.

Local IDB A Bench

The California Government Code authorizes local agencies, cities, counties and industrial development agencies to induce projects that create jobs and provide public benefit to the local community. The process is called inducement of the project. Applications will not be accepted by CIDFAC without local agency approval through inducement. Our review and final resolution relies on the public benefit and job creation documentation by the local agency.

Application and Fees

Two copies of the complete application, with all attachments including local agency inducement must be sent to CIDFAC, 915 Capitol Mall, Room 470, Sacramento. CA 95814 by the 25th of each month to be placed on the meeting agenda for the following month. An application fee of \$ 1,250.00 must be included with the application.

Allocation Commitment and Fees

The State of California has a state volume cap on the amount of bonds, therefore, a Debt Limit Allocation Committee has been established. After the final resolution has been adopted by CIDFAC, the prospective user must submit a letter to the California Debt Limit Allocation Committee (CDLAC) requesting allocation. A sample of the required letter is included as Attachment Two. One copy of the application previously sent to CIDFAC is delivered to CDLAC upon receipt. The letter application must refer to the application by date and the final resolution adopted by CIDFAC. A \$300.00 filing fee and a signed Deposit Certification form for an amount equal to one half of one percent (.5%) of the allocation requested not to exceed \$100,000 must be attached to the application request.

Financial Statements

As an attachment to the application, applicants must submit the most recent three years of financial statements. The highest level of financials should be provided, with a "review" financial statement the minimum acceptable submission. Applicants should be aware that all documents submitted along with the application are consequently considered public documents. Financial statements considered confidential must be discussed with the CIDFAC Executive Director prior to submission.

Bond Financing Documents

After receiving the Final Resolution and Debt Allocation and prior to issuing the bonds, the bond financing documents must be sent to CIDFAC for review and approval. The bond financing documents shall include all documents related to the issuance of bonds including:

- Loan, Lease or Sale Agreement
- Trust Indenture
- Deed of Trust
- Preliminary Official Statement
- Letter of Credit or other Guarantee Agreements; and
- Bond Counsel Tax Opinion

Upon staff review of the financing documents, the Commission will issue a certification of the resolution(s), which approves the project and certifies that the conditions specified in the resolution(s) have been satisfied. Upon completion of all transactions, the Commission will be sent a complete set of final bond documents.

Submission Format

The following application outline represents the minimum information, which the Commission requires in order to consider an application. Relevant additional information, particularly as it pertains to public benefits, is always encouraged.

Please submit two copies of the application in a tabulated format, loosely bound (with ACCO binding, for example) to facilitate copying. The application should constitute the first tab, followed by this list of items, as applicable:

- the inducement resolution
- evidence of the TEFRA hearing
- a bank commitment letter
- relocation letters
- a tax questionnaire from qualified bond counsel
- financial statements; and
- any other relevant documents.

The two copies of the application and all supporting material should be sent to the Sacramento office at the following address:

Joanie Jones-Kelly
Deputy Executive Director
CIDFAC
915 Capitol Mall, Room 457
Sacramento, CA 95814

If time and schedule permit, one of the Commission staff will visit the site and speak with representatives of the project prior to the Commission meeting.

VIII APPROVAL BY COMMISSION

Approval of projects rests on a simple majority vote. A representative of the company should attend the Commission meeting when their project is being reviewed, in order to field any questions about the project or company which might arise.

Again, if you have any questions on this material, please call either Joanie Jones Kelly or me at (916) 653-3843.

The California Industrial Development Financing Advisory Commission complies with the Americans With Disabilities Act (ADA). If you need additional information or assistance, please contact the California Industrial Development Financing Advisory Commission at (916) 653-3843 or TDD (916) 654-9922.